

201

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-2022-2022

Date of decision : 22.04.2022

Ashok Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Arvind Rajotia, Advocate for
Mr. F.S. Virk, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.446 dated 24.07.2021 registered under Sections 15, 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Sections 201 and 120-B of the Indian Penal Code, 1860 have been added later on) at Police Station Sadar Bhiwani Sadar, District Bhiwani.

On 19.01.2022, a Coordinate Bench of this Court was pleased to pass the following order:-

“Case heard via video conferencing.

By this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 of the Cr.P.C., upon FIR no.446, dated 24.07.2021, having been registered at Police Station Sadar Bhiwani, District

Bhiwani, alleging therein the commission of offences punishable under the provisions of Sections 15 and 18 of the Narcotic Drugs & Psychotropic Substances Act, 1985.

Learned counsel for the petitioner submits that the petitioner not having been named in the FIR as the person from whom opium and poppy husk are stated to have been recovered (as per the investigating agency), and his name having been only allegedly given in disclosure statements in police custody, he deserves to be admitted to bail, with a coaccused similarly placed (Tejvir Walia) having also been admitted to bail by this court upon him filing CRM-M-37533-2021.

Notice of motion.

Mr. Neeraj Poswal, AAG, Haryana, accepts notice at the asking of the court on behalf of respondent-State.

He submits that though the petitioner was undoubtedly named in two disclosure statements, one by those who were apprehended at the spot with the contraband and also by Tejvir Walia, however, as per such statements, at his instance the contraband was loaded in the truck.

He further submits, on query, that so far at least the telephonic conversations as are stated to have taken place are between Tejvir Walia and the present petitioner.

Adjourned to 07.03.2022.

A gazetted officer is directed to file a detailed reply to the petition, with it to be noticed by this court that upon Tejvir Walia having been admitted to interim bail by this Court, eventually that order was made absolute on 01.12.2021 with learned State counsel, on instructions from Sub Inspector Subhash, having stated that his custodial interrogation was not required.

In view of the above, at this stage at least there being

a very large doubt in the mind of this court as regards the involvement of the petitioner with there being no evidence against him other than alleged disclosure statements made in police custody, he is directed to join investigation within one week, even in terms of Section 37 (1)(b)(ii) of the Narcotic Drugs & Psychotropic Substances Act, 1985. In case he is sought to be arrested, upon him so joining, he would be released on interim bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate.

He shall also comply with the conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation, in terms of the order of this court.

19.01.2022

Sd/-(AMOL RATTAN SINGH)

JUDGE ”

Thereafter, on 07.03.2022, the following order was passed:-

“Case heard via video conferencing.

Learned State counsel submits that though the petitioner has joined investigation, the State seeks to file a reply to the petition.

He also fairly submits that after the petitioner joined investigation offences punishable under Sections 201/120-B of the IPC have been added in the FIR.

Since the State still has to file a reply to the petition, hearing in the matter is adjourned to 22.04.2022.

In the meanwhile, the interim order would continue to operate, with the petitioner also to be considered to be on interim bail qua the offences punishable under Sections

201/120-B of the IPC, till the next date of hearing.”

Learned counsel for the petitioner has submitted that in pursuance of the abovesaid order dated 19.01.2022, the petitioner has joined the investigation.

Learned counsel for the State, on instructions from ASI Subhash Chand, has submitted that the petitioner has joined the investigation on 22.01.2022 and is not required for any further custodial interrogation.

Keeping in view the abovesaid facts and circumstances moreso, the facts which have been noticed in abovesaid order dated 19.01.2022 and also the fact that the petitioner has joined the investigation and is not required for further custodial interrogation, the present petition is allowed and the interim order dated 19.01.2022 is ordered to be made absolute.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

22.04.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No